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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 MICHAEL ZELENY,

12 Plaintiff,

13 vs.

14 GAVIN NEWSOM, *et al.*,

15 Defendants.
16
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Case No. CV 17-7357 JCS

Assigned to:

The Honorable Richard G. Seeborg

Discovery Matters:

The Honorable Thomas S. Hixson

**STIPULATION TO FURTHER
CONTINUE DATES DUE TO DELAYS
CAUSED BY CORONAVIRUS (COVID-
19) PANDEMIC**

Action Filed: December 28, 2017

Trial Date: June 8, 2020
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20 **A. Recitals**

21 1. The parties have worked diligently to complete discovery in this matter on the
22 current schedule and have completed all but three depositions.

23 2. On March 4, 2020, the Governor of the State of California declared a State of
24 Emergency for California due to the novel coronavirus (COVID-19) pandemic.

25 3. On March 13, 2020, the President of the United States declared a national
26 emergency due to the Coronavirus pandemic.

27 4. On that date, the parties stipulated to continue discovery deadlines and pretrial
28 deadlines in light of the pandemic and their need to complete limited discovery remaining.

1 Dkt. No. 122. The Court granted the parties request pursuant to an Order dated March 17,
2 2020, extending the discovery cut-off to May 15, 2020. Dkt. No. 123.

3 5. The difficulties posed by the novel coronavirus have been more significant than
4 the parties anticipated at the time of their last stipulation. The Governor issued a statewide
5 order requiring Californians to remain at home except for essential business. The City and
6 County of San Francisco have issued stay-at-home orders extended through May 31. The
7 County of Los Angeles, where Zeleny and his counsel are located, has a stay at home order in
8 effect until May 15, which is unlikely to be lifted at that time.

9 6. As a result of the limitations imposed by the novel coronavirus, the parties are
10 unable to complete essential discovery as provided in their last stipulation. The following
11 discovery remains to be completed at this time:

- 12 a. Resumed deposition of Chief Dave Bertini, individually and as a Rule
13 30(b)(6) witness for the City of Menlo Park;
- 14 b. Resumed Rule 30(b)(6) deposition of New Enterprise Associates;
- 15 c. Deposition of Alex McIntyre, former City Manager of Menlo Park;
- 16 d. Deposition of Ivan Toews, former Land Development Engineer at the
17 City of Menlo Park
- 18 e. Zeleny has requested a further deposition of a representative of the State
19 of California and the parties are engaged in the meet-and-confer process.
- 20 f. Requests for Production, Set Four, to the City of Menlo Park, Set Three
21 to Attorney General Becerra, and Set Two to Chief Bertini.

22 7. Counsel have agreed to continue discovery selectively, rather than agreeing to a
23 further overall continuance.

24 NOW, THEREFORE, all parties have agreed and stipulated as follows:

25 1. Subject to the Court's approval, the parties have agreed to continue discovery
26 deadlines as follows:

- 27 a. Fact Discovery Cut-Off from May 15, 2020 to July 3, 2020, limited to those
28 outstanding matters specified above;

- b. The discovery motion cut-off shall run from the new discovery dates provided herein.
- c. Expert Disclosures from May 29, 2020 to July 10, 2020;
- d. Rebuttal Expert Disclosures from June 19, 2020 to July 31, 2020.
- e. Expert Discovery Cut-Off from July 10, 2020 to August 21, 2020;
- f. Dispositive Motion Hearings from August 6, 2020 to September 17, 2020.

It is SO STIPULATED.

Dated: May 5, 2020

Respectfully submitted,

s/ Damion Robinson

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s/ Todd H. Master

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Dave Bertini

s/ John W. Killeen

John W. Killeen
Deputy Attorney General
California Department of Justice
Attorney for Defendant Xavier Becerra

ATTESTATION PER LOCAL RULE 5-1

I attest that each person whose electronic signature appears above has concurred in the electronic filing of this joint document and has authorized the use of their electronic signatures. Records supporting this concurrence are maintained by the filer and are available for inspection if needed.

Dated: May 6, 2020

s/ Damion Robinson

Damion Robinson

PROOF OF SERVICE

I hereby certify that on May 7, 2020, I electronically filed the foregoing document using the Court's CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of electronic filing to the interested parties.

s/ Gabrielle Bruckner
Gabrielle Bruckner